

**BOARD OF ADJUSTMENT
BOONE COUNTY PLANNING COMMISSION**

Five (5) scaled copies and one (1) 11 x 17 reduction of submitted drawings are required

Site Plan Review is not granted by the appropriate Board of Adjustment

An application consists of all fees paid in full, submitted drawings, and a completed application form

SECTION A: (To be completed by applicant)

1. Check One Boone Florence Walton Union

2. Check One Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use

3. Applicant: ECE,inc

Address: 4205 Dixie Highway

Elsmere KY 41018
City State Zip Code

Phone Number: 859-727-4200 Fax Number: _____

Email: rwaynee@ece-inc.net

4. Description of Request:
Variance for the minimum frontage required in a RSE zone. The minimum frontage required is 75' feet.
Requesting a variance to 23.17' feet , so the property can be subdivision for the construction of a single family home

5. Name of Development: _____

6. Location of Development: 3637 Garber Lane

Burlington KY 41005
City State Zip Code

7. Acreage Under Review: 3.013 Acres

8. Lot Number and Name of Subdivision (if part of a subdivision): _____

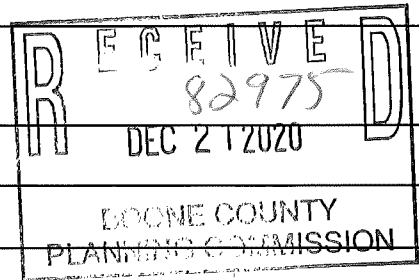
9. Current Owner: Dave & Mary Texter

Address: 3637 Garber Lane

Burlington KY 41005
City State Zip Code

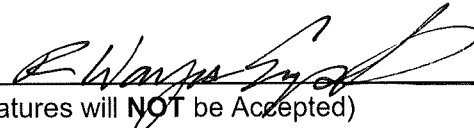
Phone Number: 859-630-2304 Fax Number: _____

Email: RTexter@outlook.com



10. Proposed Use(s) on Site: Single-family Home
11. Total Square Footage of Existing and/or Proposed Buildings: Existing 2625 SF/ Proposed 2600 SF
12. Current Zoning: RSE / A-2
13. 1152 325 2013
Deed Book Page Group Number
14. Is the site subject to a zone change: Yes No
If yes, date of approval: _____
15. Have you submitted a Site Plan with this request: Yes No
16. Have you submitted a list of adjoining property owners with this request: Yes No
17. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: 
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

ORIGINAL Applicant's Signature: 
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

SECTION B: (To be completed by Planning Commission staff)

1. Date Received: 12-21-20 Fee Received: \$666.00 Receipt #: 82975
2. Is application complete:
3. Staff Reviewer: M. Schwartz
4. Scheduled Board Action Date: 1/13/2021
5. Board Action: 1/13/2021
- Approved
- Approved with Conditions (see #6)
- Denial (See #7)
6. Conditions of Approval: _____
- _____
- _____
- _____
- _____
7. Reasons for Denial: _____
- _____
- _____
- _____
- _____

Boone County Planning Commission
Boone County Administration Building
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005
Phone: 859-334-2196 Fax: 859-334-2264
plancom@boonecountyky.org
www.boonecountyky.org

STAFF REPORT

#2

APPLICANT: ECE, Inc., per Wayne Erpenbeck, on behalf of Dave and Mary Texter

LOCATION: 3637 Garber Lane, Boone County, Kentucky

ZONING: Agricultural Estate (A-2) and Rural Suburban Estates (RSE)

DATE: January 13, 2021

PROPOSAL

- A. The request is to reduce the minimum required frontage from 150 feet to 25.78 feet in order to subdivide the property.

SITE HISTORY

- 1986 On October 15, 1986, the Boone County Planning Commission approved a Conveyance Plat creating the lot in question.
- 2003 On August 19, 2003, the Boone County Planning Commission approved a zoning permit for the construction of a garage building.
- 2004 On April 5, 2004, the Boone County Planning Commission approved a zoning permit for the installation of a pool.

APPLICABLE REGULATIONS

- A. Section 250 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to hear and decide on applications for variances.
- B. Section 250 of the Boone County Zoning Regulations defines a variance as a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.
- C. The Board should evaluate the request as it relates to the criteria necessary for granting a Variance as stated in Section 251 of the Boone County Zoning Regulations.
1. Findings listed in Section 251:
 - a. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - (1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

- (2) The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - (3) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.
- D. Section 3110 of the Boone County Zoning Regulations requires a minimum frontage of 150 feet within the A-2 district.
 - E. Section 4000 of the Boone County Zoning Regulations defines lot frontage as the distance between the side property lines as measured across the required minimum front yard setback line.
 - F. Section 3110 of the Boone County Zoning Regulations requires a minimum front yard setback of 60 feet within the A-2 district.
 - G. Section 620 of the Boone County Zoning Regulations states that the “purpose of the Agricultural Estate district is to provide for low density residential development and on a limited basis agricultural uses or agricultural related uses in the context of a rural environment.”

RELATIONSHIP TO THE COMPREHENSIVE PLAN

- A. The Our Boone County Plan 2040 Future Land Use Plan designates the site in question for “Rural Density Residential”, “Suburban Density Residential”, and “Developmentally Sensitive”.

Rural Density Residential is defined as low density residential uses of up to one dwelling unit per acre.

Suburban Density Residential is defined as single family housing of up to four units per acre.

Developmentally Sensitive is defined as areas that have an existing slope of twenty percent or greater for a height of 20 meters (67.6 feet), or have unique soil or flooding characteristics which limit the ability of an area to support urban development, or contain significant wooded areas, creeks, wildlife habitat, or other natural features that are important to a site's stability and visual character. In addition, developmentally sensitive

areas may, in the future, be defined and protected due to historical or visual importance. Any development on land identified as Developmentally Sensitive must be carefully assessed by the developer and the Planning Commission to determine the ability of the land to support the proposed project. The land use priority for areas designated Developmentally Sensitive is preservation of the existing environment, as opposed to development of the land. This shall act as a guideline for any project proposed in Developmentally Sensitive areas; specific sites designated as Developmentally Sensitive require more detailed inventories of soil, slope, wildlife habitat, vegetation, and other possible physical constraints as part of the development plans. These inventories shall be used, along with engineering studies, to determine whether an area designated Developmentally Sensitive can be developed in a fashion which is sensitive to the existing site characteristics. The Developmentally Sensitive areas of Boone County have been identified by utilizing United States Department of Agriculture Natural Resources Conservation Service (formerly Soil Conservation Service) data and mapping, through the Boone County Geographic Information System (GIS). The degree of accuracy of these areas is intended to locate general areas of concern. Actual site assessments will determine the exact boundaries of Developmentally Sensitive areas in Boone County at the time of development.

- B. The following Our Boone County Plan 2040 Goals and Objectives apply to this application:

Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community (Overall Goal A, Objective 4).

Development policies shall not discriminate against any person (Demographics Goal A, Objective 1).

Home ownership shall be encouraged and incentivized as well as redevelopment and renovation of deteriorating housing stock (Demographics Goal B, Objective 3).

Residential developments shall be evaluated for impact on infrastructure, environment, health and safety considerations, buffering, and design with secondary consideration given to dwelling unit type and density (Demographics Goal B, Objective 4).

- C. Garber Lane is identified as a public local street providing for two way traffic within an approximate 10 foot pavement width. There are no sidewalks along the roadway.
- D. Garber Lane transitions from a paved surface, with County maintenance, to a gravel surface, without County maintenance.

SURROUNDING LAND USES AND ZONING

North: Vacant/undeveloped wooded land (A-2 and RSE)

South: Vacant/undeveloped wooded land (A-1)

East: Single family (RSE)

West: Vacant/undeveloped wooded land (A-2)

SITE CHARACTERISTICS

- A. The 3.0134 acre property is located at the terminus of Garber Lane, approximately 2,600 feet west of Peel Road.
- B. The site is currently occupied by a single-family residential dwelling, an accessory garage structure, and a pool.
- C. The site is within the 55 day/night noise level of the Northern Kentucky/Greater Cincinnati International Airport.
- D. The site slopes upward from 740 msl at the south property line to 770 msl at the north property line, at an average slope of approximately 10%.

PROPOSED DEVELOPMENT

- A. The property owner is proposing to subdivide the property to create one additional building lot meeting the minimum requirements of the RSE district.

STAFF COMMENTS

- A. The site is located at the terminus of Garber Lane and the resulting decrease in road frontage will have little to no impact on the functionality of Garber Lane.

CONCLUSION

- A. KRS 100.241 and Section 220 of the Boone County Zoning Regulations give the Boone County Board of Adjustment and Zoning Appeals the authority to act on the request.
- B. Section 251 of the Boone County Zoning Regulations identifies criteria necessary for granting a Variance. The applicant needs to provide information as to how their application meets this criteria.

Respectfully submitted,



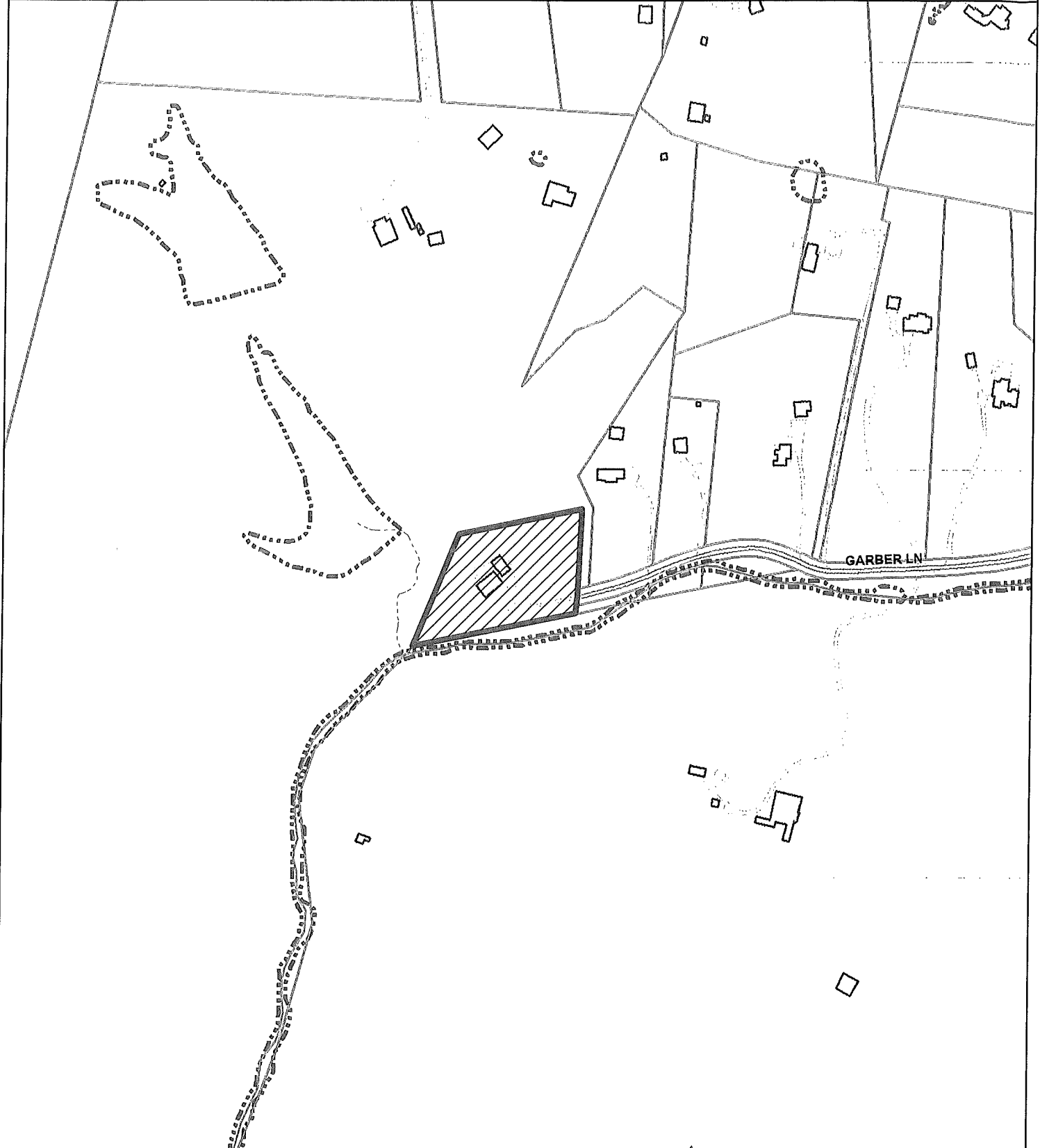
Michael D. Schwartz
Planner

MDS/ss

Attachments
*Vicinity Map

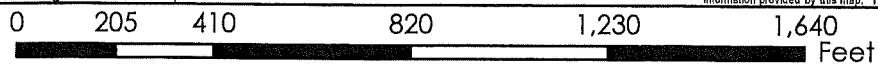
Vicinity Map

www.boonecountygis.com



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Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



Boone County GIS



Map Created: 01/01/2018

Photo / Data / Credits by GIS.com 04/11/11
ArcMap Document: *.mxd

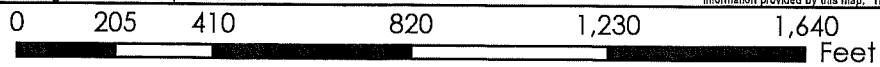
Aerial Map

www.boonecountygis.com



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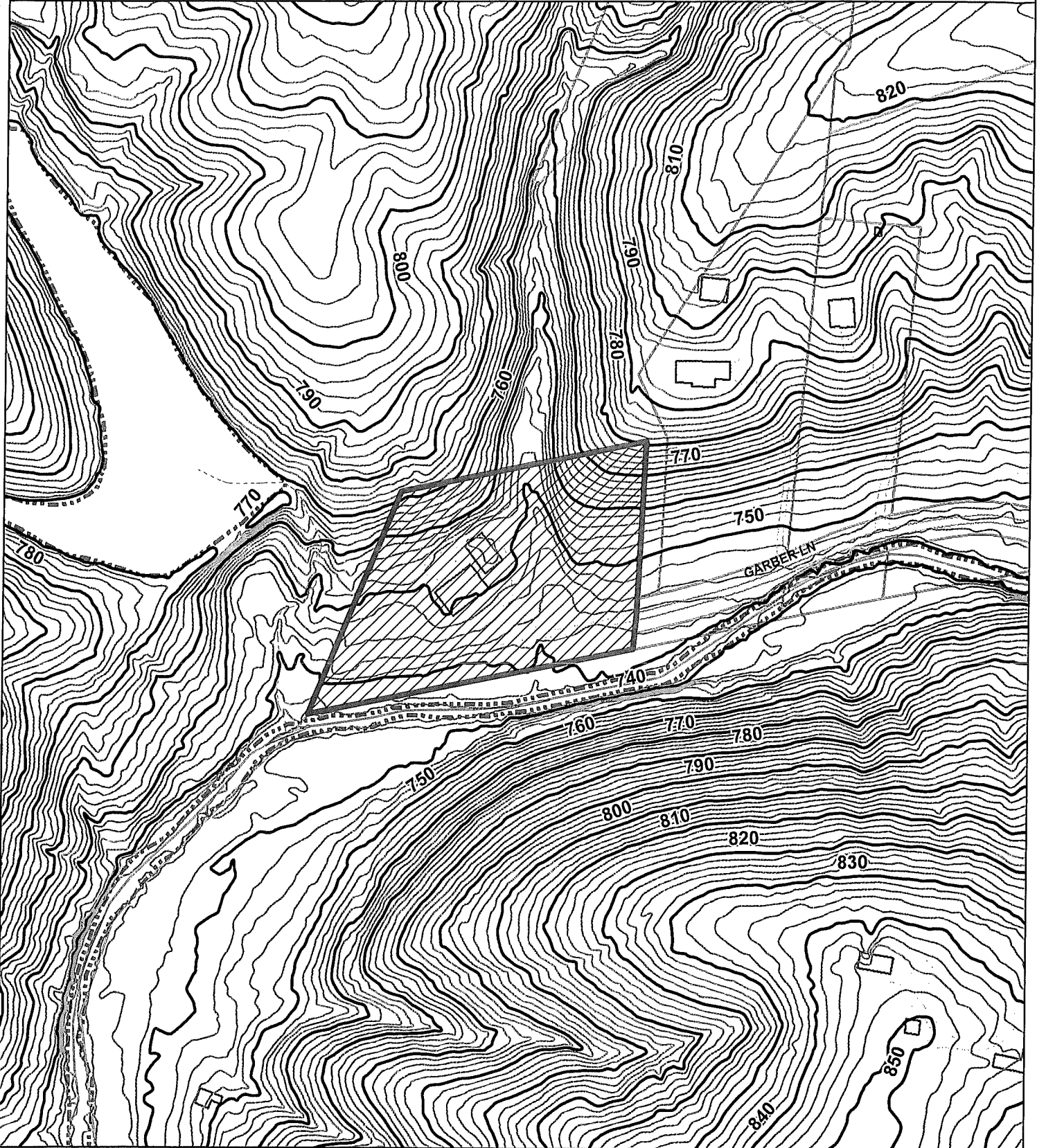
Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2018

Photo File: E:\boone\GIS\2018\1113
ArcMap Document: *.mxd

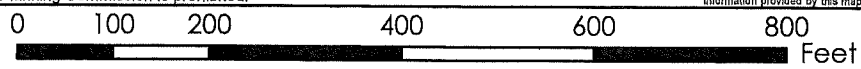
Topographic Map

www.boonecountygis.com



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Boone County GIS



Zoning Map

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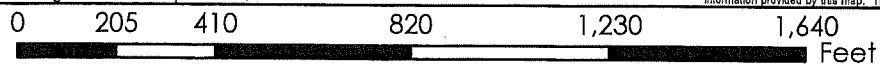


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Boone

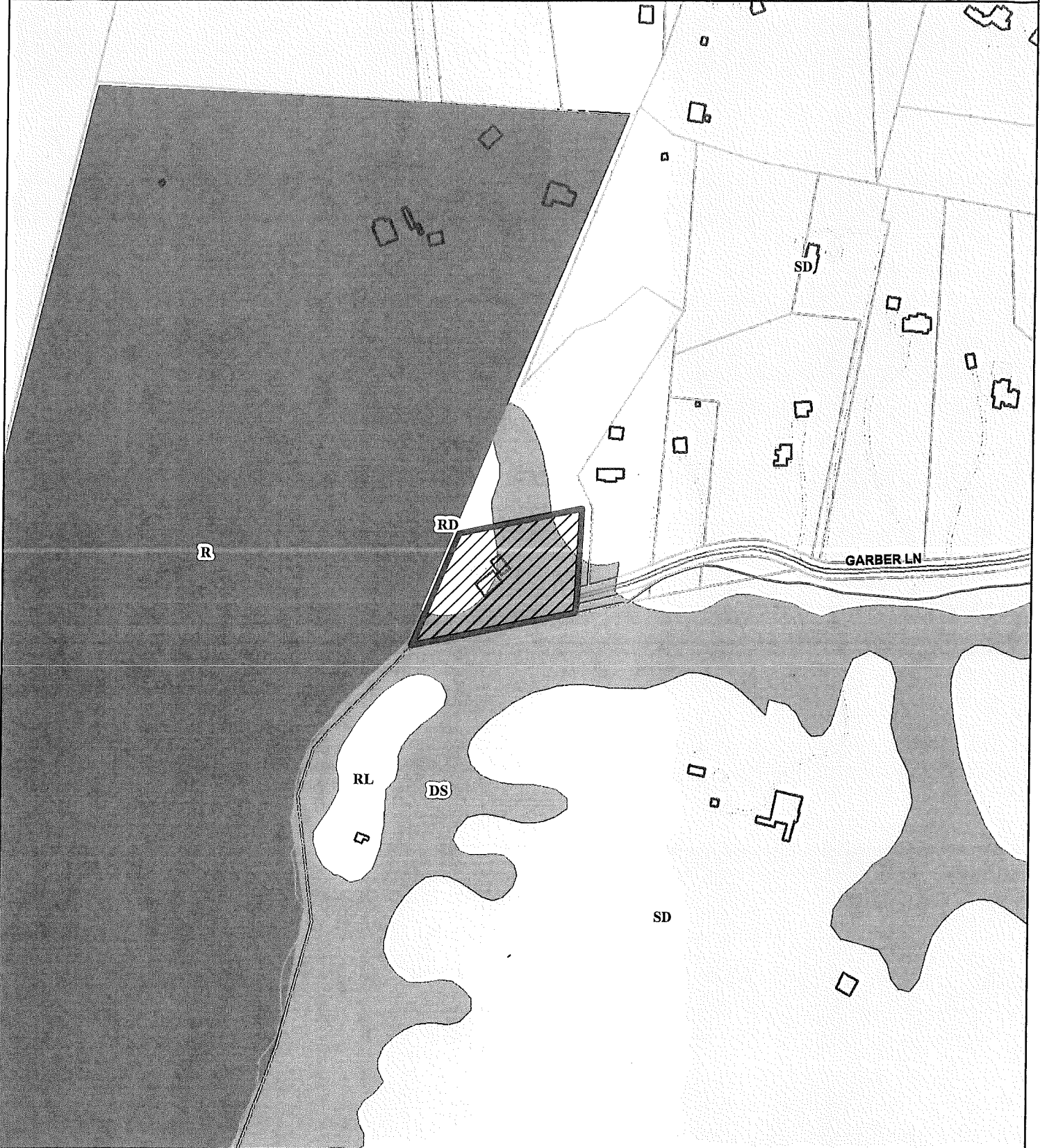


1 inch = 400 feet



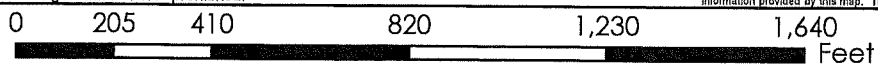
2040 Future Land Use Map

www.boonecountygis.com



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1 inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map



Map Created: 01/01/2018

Map File: 12.mxd by 2/26/2018 1:05
ArcMap Document: *.mxd

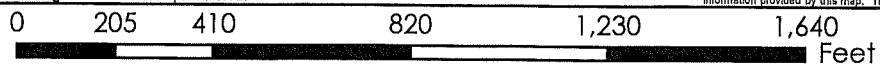
Noise Control Map

www.boonecountygis.com



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Boone County GIS



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BOONE COUNTY PLANNING COMMISSION**

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2. Check One Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use

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Elsmere KY 41018
City State Zip Code

Phone Number: 859-727-4200 Fax Number: _____

Email: rwaynee@ece-inc.net

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Burlington KY 41005
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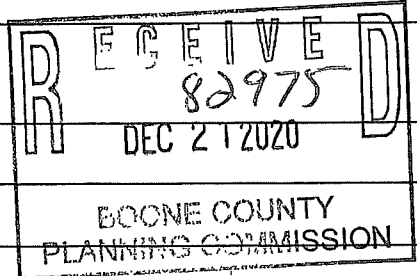
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Address: 3637 Garber Lane

Burlington KY 41005
City State Zip Code

Phone Number: 859-630-2304 Fax Number: _____

Email: RTexter@outlook.com



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Deed Book Page Group Number
14. Is the site subject to a zone change: Yes No
If yes, date of approval: _____
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(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

ORIGINAL Applicant's Signature:
(Faxed, Photocopied or Scanned Signatures will **NOT** be Accepted)

November 1, 2020

David and Mary Texter
3637 Garber Lane
Burlington, Ky. 41005

Boone County Board of Adjustments

BOONE COUNTY PLANNING COMMISSION, Administration Building

2950 Washington St, Rm 317

P.O. Box 958

Burlington, KY 41005

Dear Members of the Board:

My wife and I recently purchased the property at 3637 Garber Lane in Boone County. The property has a section that is well suited for another house which we would like to make available to our parents to build a house. This would allow our parents to be close to us and our children as they continue living their later years. It would also allow us to be close to our parents to assist them if needed.

However, for our parents to be able to build on the property it must be subdivided into a buildable lot. We are therefore requesting that the county approve any applicable variances so that we and our parents can move forward with building a house on the parcel in question. As you can see from the conveyance survey, both lots would be at the very end of Garber Lane and would not interfere with or encumber any other property in the area. When we first saw the property, it became apparent to us that it was ideally situated for another house and would make a great location for our parents.

My wife and I would greatly appreciate your approval of the subdivision of our property and granting the requested variances so our parents can build their dream retirement house next to us.

Respectfully submitted,

David J. Texter and Mary A. Texter
3637 Garber Lane
Burlington, Ky 41005
(859) 630-2304
dtexter@outlook.com

October 28, 2020

Ronald and Brenda Texter
4537 Dameron Lane
Cincinnati, Ohio 45244

Boone County Board of Adjustments

BOONE COUNTY PLANNING COMMISSION, Administration Building

2950 Washington St, Rm 317

P.O. Box 958

Burlington, KY 41005

Dear Members of the Board:

My husband and I come before you to request a variance from the Zoning and Planning decision to allow us to build on a parcel of land contiguous with our son's property at 3637 Garber Lane, Boone County, Burlington, Ky. 41005. Through guidance and advice of our builder, Mike Kegley of The B.O.L.D Company, we met with the Septic Inspector for Northern Kentucky Health Dept, Bob MacCandless, and Wayne Erpenbeck of Erpenbeck Consulting Engineers, who has diligently prepared the Conveyance Survey as needed for the Zoning and Planning Commission.

We have sought out these capable people and spent the time, effort and investment to follow all guidelines we are aware of to meet the criteria for your granting approval.

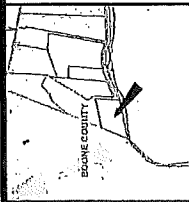
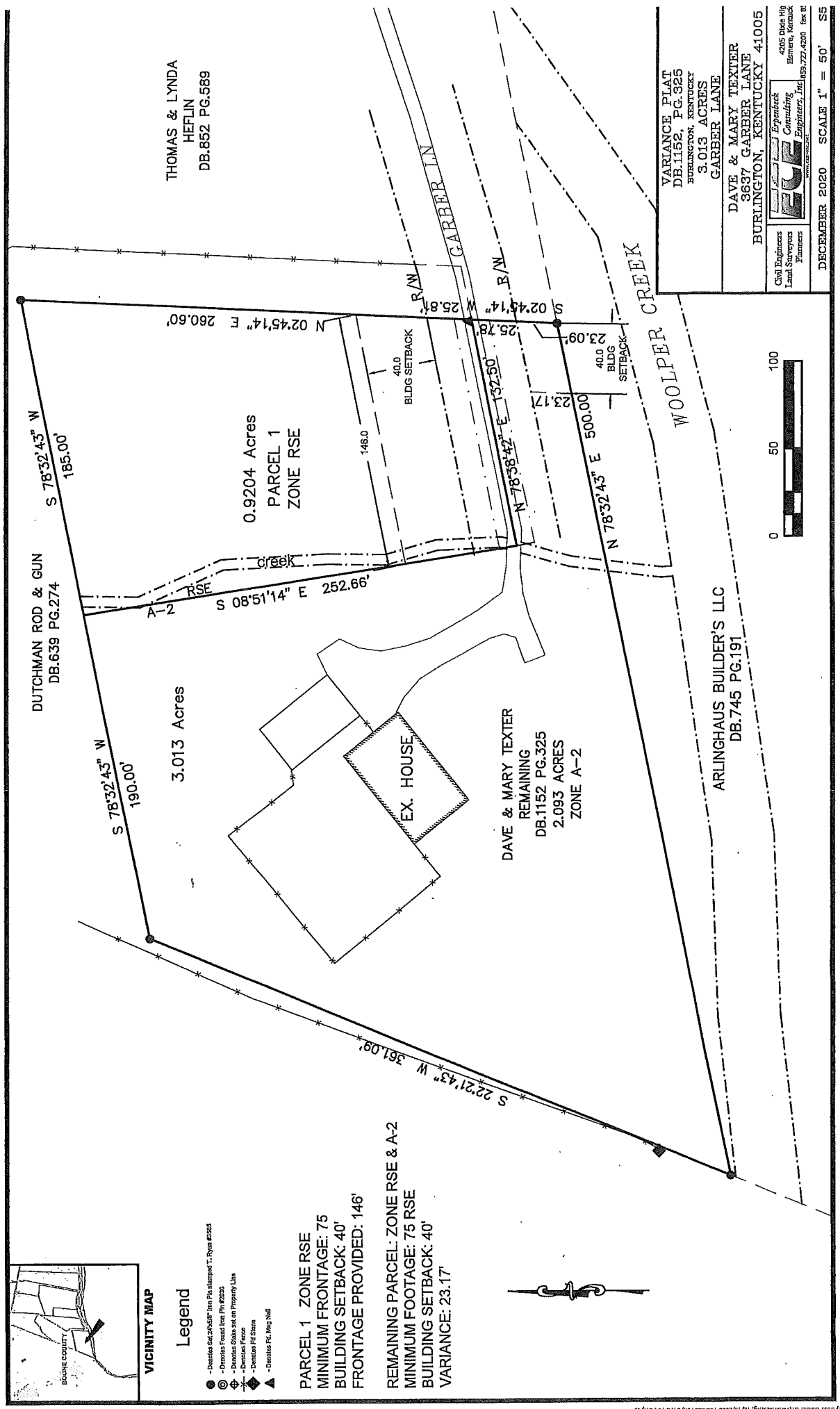
We have great hopes to build on this lot, not just because of the bucolic beauty of the land but because all our ancestors come from the deep hills of Kentucky, which we love so much. After many long years of work, travel, and life, we long to build and live next to our son and his family on this little piece of Heaven. Granting this variance will allow us to be able to spend our retirement years next to our grandchildren and watch them grow. We will be able to spend lots of time gardening and catching salamanders in the creek with them, which is a pastime we look forward to spending with them, in addition to the usual Holidays and Special Occasions. Also, as our twilight years approach, our son and his family will be close by to comfort and help care for us if needed.

We are so excited and hopeful to build and live next to one of our sons in beautiful Boone County Kentucky.

Thank You for your Consideration.

Sincerely,

Ronald and Brenda Texter



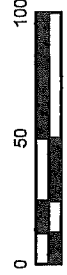
VICINITY MAP

Legend

- Dashed Set 2'x2'x6" Iron Pin, stamped T, Ryan #2585
- Dashed Found Iron Pin #2020
- Dashed Stake set on Property Line
- Dashed Fence
- Dashed Pk Stone
- Dashed Pk. Imp. Nail

PARCEL 1 ZONE RSE
 MINIMUM FRONTAGE: 75'
 BUILDING SETBACK: 40'
 FRONTAGE PROVIDED: 146'

REMAINING PARCEL: ZONE RSE & A-2
 MINIMUM FRONTAGE: 75 RSE
 BUILDING SETBACK: 40'
 VARIANCE: 23.17'



DECEMBER 2020 SCALE 1" = 50' S5

THOMAS & LYNDA
 HEFLIN
 DB.852 PG.589

VARIANCE PLAT
 DB.1152 PG.325
 BURLINGTON, KENTUCKY
 3.013 ACRES
 GARBBER LANE

DAVE & MARY TEXTER
 3687 GARBBER LANE
 BURLINGTON, KENTUCKY 41005

ECE
 Engineering, Inc.
 Civil Engineers
 Land Surveyors
 Planners

4245 Duan Hip
 5000 sq. ft.
 1000 sq. ft.

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Dave & Mary Texter
3637 Garber Lane
Burlington, KY 41005
2. ADDRESS OF PROPERTY
3637 Garber Lane
Burlington, KY 41005
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
ECE, Inc/Texter
4. DEED BOOK 1152 PAGE NO. 325 GROUP NO. 2013
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment: Conditional Use Permit
From To
- Development Plan Conditional Zoning
- Subdivision Plat Other:
(Not Recorded)
- Variance
6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005



SIGNATURE OF COMPLETING OFFICIAL

Michael D. Schwartz, Planner

Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Michael D. Schwartz

on behalf of the Boone County Planning Commission this 14 day of January, 2020.



Treva L. Beagle
Notary ID 588897
NOTARY PUBLIC, State at Large

My commission Expires:
November 12, 2021

This instrument was prepared for recording purposes only by:

Ronica Wuest
Boone County Planning Commission
2950 Washington Street, Room 317
P.O. Box 958
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)